

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

BRIAN TYRONE SCOTT,)
Petitioner,)
v.) Case No. CIV 24-082-Raw-Jar
DEBORAH A. REHEARD,)
Okmulgee County District Court Judge,)
Respondent.)

OPINION AND ORDER

Petitioner, a state prisoner who is incarcerated at James Crabtree Correctional Center in Helena, Oklahoma, has filed a motion pursuant to Fed. R. Civ. P. 60(b)(1),(6). (Dkt. 1). He alleges the Oklahoma Court of Criminal Appeals erred in Case No. PC-2023-941 “when the court failed to follow the Oklahoma Statute Rule in Title 22 section 5.2(c)(2)-9.7,” which concerns a state petition in error and supporting brief. *Id.* at 1. While Petitioner’s motion is unclear, he apparently is challenging the proceedings in his application for state post-conviction relief. *Id.* at 1-2.

Rule 60 of the Federal Rules of Civil Procedure concerns requests for relief from a *federal* judgment or order. Here, Petitioner is complaining about the actions of the Oklahoma Court of Criminal Appeals, not the actions of a federal court. To challenge his state conviction in the federal court, he must file a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Only after this Court has entered a judgment or order, may he request relief under Rule 60.

ACCORDINGLY, Petitioner’s motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure (Dkt. 1) is denied, and this action is dismissed without prejudice.

IT IS SO ORDERED this 14th day of May 2024.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE